IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 27 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS

==========

1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BABULAL DOLATRAM DIVAKAR CHAUDHARI

Versus

OIL & NATURAL GAS COMMISION

Appearance:

1. Special Civil Application No. 27 of 1988
(MR MC KAPADIA) for Petitioner
MR RAJNI H MEHTA for Respondent No. 1-2

CORAM : MR.JUSTICE KSHITIJ R.VYAS

Date of decision: 20/09/2002

ORAL JUDGEMENT

The petitioner in this petition under Article 226 of the Constitution of India, has prayed for appropriate

writ, order or direction directing the respondents to promote him on a promotional post of Assistant Executive Engineer from the date on which his junior Shri J.K.Trivedi is promoted with all consequential benefits, and to restrain the respondents from giving further promotion to any of the persons who are juniors to the petitioner and to consider the petitioner's case for promotion to the post of Assistant Executive Engineer pending hearing and final disposal of the petition.

2. Rule was issued in this petition way back in the year 1988. Upon the death of learned Advocate appearing for the petitioner, the usual notice was issued to the petitioner to file appearance in the matter. Now, according to the endorsement of the Bailiff, it appears that the petitioner has also expired on 29.10.1999.

3. I have heard learned Counsel Mr.Rajni Mehta appearing on behalf of the respondent ONGC. I have also perused the averments made in the petition as well as the affidavit-in-reply submitted in the matter. My attention has been invited by learned Counsel Mr.Mehta to the order dated 11.4.1985 passed by this Court in Special Civil Application No.1062 of 1985. In the said petition also, the petitioner claimed promotion with effect from 1967. This Court rejected the said petition on the ground that such stale claims regarding promotion operative from the year 1967 cannot be entertained in a petition filed in the year 1985. It is pertinent to note that learned Counsel for respondent ONGC has in fact produced the promotion order dated 18.5.1979 issued in favour of the petitioner, however, the petitioner refused to accept the same on the ground that promotion was given at a very belated stage. While rejecting the petition, this Court had suggested the respondent ONGC to examine the case of the petitioner for promotion with effect from 1979, if he is otherwise fit, provided he is willing to accept the same.

4. Learned Counsel Mr.Mehta submitted that in pursuance to the suggestion of the Court contained in the said order, the petitioner was upgraded to the post of Technician, Gr.II with effect from 18.2.1979, however, the petitioner did not accept the same and continued to work as Technician, Gr.III. Thus, it is clear that the petitioner is no more interested in getting promotion even though his case has been examined by the respondent ONGC. In any case, once this Court has rejected the earlier petition with respect to the claim of promotion, the second petition with respect to the same subject matter, cannot be entertained. It is stated at Bar by

Mr.Mehta that the petitioner has retired on 30th April 1990 and since then, this Court has not been moved for hearing of this petition. Thus, taking the over all view of the matter, the petitioner is not entitled to get any relief and therefore, no useful purpose would be served by giving further opportunity to the heirs and legal representatives of the petitioner to pursue the matter further.

5. There being no substance in this petition, it is rejected. Rule is discharged. No order as to costs.

(Kshitij R. Vyas, J.)

Sreeram.